

**AFFIDAVIT**

I, Gary Malone, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Senior Special Agent and Certified Explosives Specialist with ATF since March 2005. I am currently assigned to ATF Philadelphia Group II, Arson and Explosives Task Force. The Task Force's primary responsibilities include investigating groups or individuals who commit violations of federal arson and explosives laws.
2. During my tenure with the ATF, I have been the author of numerous affidavits in support of federal search warrants. I have personally conducted and participated in dozens of investigations, which have resulted in the arrest and prosecution of individuals charged with federal crimes.
3. I am a Law Enforcement officer as defined in 18 U.S.C. § 3051, and as such, I am a law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), and am empowered by law to conduct investigations and to make arrests for offenses enumerated in 18 U.S.C. § 2516.
4. The contents in this affidavit are the result of my observations, the observations of other law enforcement officers and witnesses, the observations and opinions of officers and agents who are experts in the investigation of arson and explosives, and my experience and background as an ATF Agent. Because this affidavit is being submitted for the purpose of obtaining authorization for an arrest warrant, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that DAVID PEREZ (hereinafter, "PEREZ") has committed violations of Title 18, United

States Code, Sections 842(i) (felon in possession of an explosive) and 842(a)(1) (engaging in the business of importing, manufacturing, or dealing in explosive materials without a license).

### **PROBABLE CAUSE FOR ARREST**

5. From June 1, 2020, to the present, ATF agents in Philadelphia have investigated approximately 161 criminal explosions involving explosive devices known to the ATF as “M-Devices.” M-Devices range in terminology from M-80 to various amounts up to M-1000, and the M-1000 bear the street vernacular of “quarter sticks of dynamite” due to their size. These devices generally consist of a heavy cardboard tube, sealed at both ends (often using glue or another adhesive), filled with an explosive powder, and have a piece of hobby fuse (wick) inserted in either the end or middle. The devices function by applying an external heat source, such as a match or flame, to the fuse. The most common explosive found inside this type of device is Flash Powder, which is a perchlorate/chlorate chemical explosive mixture. These devices can contain enough explosives to cause serious bodily injury and in certain cases, death. The devices are not legally manufactured, sold, or imported, anywhere in the United States. The devices are classified as Illegal Explosive Devices under federal law by the ATF, Department of Transportation (“DOT”), and Consumer Product Safety Commission. Flash powder is recognized and regulated as an explosive by ATF and is listed on the ATF annual List of Explosive Materials.

6. While investigating these approximately 161 crime scenes, ATF post-blast investigators have recovered red plastic end caps with the name “Harmon Ventures” stamped on them located at multiple post blast scenes. On December 16, 2020, I interviewed the owner of Harmon Ventures, LLC. During this interview, I identified multiple mid-level distributors of the red

plastic caps manufactured by Harmon Ventures, LLC. For example, one of the identified mid-level distributors of the Harmon Ventures end caps was PyroDirect.com/Badaboom Fireworks. The owner of PyroDirect.com/Badaboom Fireworks was subsequently interviewed, and the owner identified several orders of Potassium Perchlorate, red 1" x 6" inch cardboard tubes, and red plastic endcaps from Harmon Ventures LLC, which were sent to Philadelphia addresses.

7. Names attached to these invoices included DAVID PEREZ (date of birth in June 1985, with a Social Security number ending in 7941), a known alias used by PEREZ of "Xavier Dryson," and the name of PEREZ's sister. One address for delivery that was listed on some of these orders was on West Cornwall Street, Philadelphia, Pennsylvania, which is PEREZ's address, according to Pennsylvania Department of Transportation records. A PyroDirect.com/Badaboom Fireworks invoice dated March 17, 2018, listed the telephone number (267) xxx-8249 (hereinafter Target "Telephone #1" or "TT #1") as an identifying phone number for PEREZ.

8. TT #1 is subscribed through T-Mobile to David PEREZ, at PEREZ's known address on West Cornwall Street. The MSISDN name is stated as "Wyte Perez," a known alias of PEREZ. The T-Mobile subscriber information further matches the date of birth and Social Security number of the same PEREZ who is the subject of this affidavit.

9. On May 21, 2021, I interviewed the owner of PyroDirect.com/Badaboom Fireworks. He stated that an individual who appeared on the system caller ID as "Perez, Wyte," used TT#1 to contact the company to request information about placing an order online. The owner of PyroDirect.com/Badaboom Fireworks stated that "Perez, Wyte," subsequently placed an order online for the following items at 12:25 p.m.: 100 pc 1" id x 6" long -1/8" wall Red Spiral Tube,

Price \$37.99, Quantity: 25, Amount \$949.75; and 100 pc 1" Red Plastic Plugs, Price \$7.25, Quantity: 50, Amount \$362.50. The items were paid for via PayPal, using an email address corresponding to the name "Xavier Dryson," an alias used by PEREZ. Shipping information was to an individual identified herein as "V.R.," with an address on North 3<sup>rd</sup> Street in Philadelphia.

10. Based on my training and experience, I know the above components are consistent with some of the items necessary for manufacturing M-Type illegal explosive devices.

11. The owner of PyroDirect.com/Badaboom Fireworks told me that PEREZ said that the company should contact V.R. at the phone number listed on the order to schedule a physical pickup of the tubes and plastic plugs in person. According to the owner, an employee of PyroDirect.com subsequently called V.R. at the phone number listed on the order to schedule the pick-up of the items for Saturday, May 22, 2021.

12. On May 22, 2021, at approximately 9:13 a.m., a Honda CRV bearing a Pennsylvania license plate arrived at the PyroDirect.com/Badaboom Fireworks warehouse located in Blakeslee, Pennsylvania to pick up the items associated with the purchase discussed above. This CRV is registered to V.R. at the same North 3<sup>rd</sup> Street address that was provided during the order to Pyrodirect.com. Surveillance video of the pickup was recorded. I obtained the Pennsylvania Department of Transportation photograph of V.R. The person in the photograph in the Pennsylvania DOT database of V.R. looks like the woman who picked up the items from the warehouse, as shown in the video.

13. On May 22, 2021, at approximately 11:15 a.m., agents observed V.R. driving the same Honda CRV in the immediate area of PEREZ's home on West Cornwall Street,

Philadelphia. We lost sight of V.R. after she turned northbound on 3<sup>rd</sup> Street travelling in the direction of the rear of PEREZ's home.

14. PEREZ's address on West Cornwall Street is approximately 96 miles away from the PyroDirect.com/Badaboom Fireworks warehouse located in Blakeslee, Pennsylvania. The travel time from the warehouse to PEREZ's home is approximately 1 hour and 50 minutes using Google Maps.

15. Phone records available to the government show that PEREZ's phone and V.R.'s phone had numerous communications on May 21, 2021, the day the PyroDirect.com order was placed. This phone activity is consistent with communications between PEREZ and V.R. about the order placed to PyroDirect.com.

16. Phone records available to the government show that PEREZ's phone and V.R.'s phone had numerous communications on May 22, 2021, the day the PyroDirect.com order was picked-up by a woman driving V.R.'s car. This phone activity is consistent with V.R. communicating with PEREZ about her pick-up of materials from the PyroDirect.com warehouse, and her alerting PEREZ that she has arrived with the materials to his home on West Cornwall Street.

17. On May 24, 2021, an ATF Agent acting in an undercover capacity (ATF UC) contacted David PEREZ on TT#1. The following is a transcript of the consensual recorded phone call:

*PEREZ: Hello*

*ATF UC: Yo bro what's up?*

*PEREZ: Who this?*

*ATF UC: Yo my man told me to get with you about that thing.*

*PEREZ: About what? This fresh homie?*

*ATF UC: What's up?*

*PEREZ: This fresh homey?*

*ATF UC: Yeah Yeah its J homie.*

*PEREZ: What he say your name was Sha? Or something like that?*

*ATF UC: Yeah*

*PEREZ: Yeah what's up?*

*ATF UC: What's up now?*

*PEREZ: Yeah I'm on deck if you need them.*

*ATF UC: Alright. I'm trying to get them long jawns though.*

*PEREZ: What long ones? The red ones right, that he was telling you about?*

*ATF UC: Yeah*

*PEREZ: Yeah...I mean they not that long they only like 6 inches.*

*ATF UC: Alright. Yeah Yeah Yeah.*

*PEREZ: Yeah them.*

*ATF UC: What you trying to get for it?*

*PEREZ: 5 a piece. That's my wholesale price*

*ATF UC: You said 5 a piece?*

*PEREZ: Yeah*

*ATF UC: That's cool. Yeah I'm trying to get like...maybe like 50*

*PEREZ: I know he told me already*

*ATF UC: Oh he told you?*

*PEREZ: I couldn't get back to you sooner cuz I left my phone and I was out of the city.*

*ATF UC: Nah it's cool man*

*PEREZ: I ain't get back to last night so I hit him up as soon as I got back last night*

*ATF UC: Alright I got you. Yeah I be working anyway man*

*PEREZ: Yeah I got them on deck if you need them*

*ATF UC: Alright I'm gonna try and roll through, man I don't know if I can do tomorrow I got some shit to deal with tomorrow. Maybe like Wednesday or something.*

*PEREZ: That's cool...I'm cool with it. Just hit me up, this my number.*

*ATF UC: Alright I'm gonna hit you up then*

*PEREZ: Alright*

18. On May 26, 2021, the ATF UC contacted David PEREZ on TT#1 to set up a controlled purchase of fifty (50) M-type illegal explosive devices. The following is a transcript of the consensual recorded phone call:

*PEREZ: Sha*

*ATF UC: What's up playa, what's goodin?*

*PEREZ: I ran out of chemicals, I'm waiting to get the chemicals from the ugh...that's in the fuckin post office stuck.*

*ATF UC: Ah for real?*

*(Unintelligible)*

*PEREZ: I had shit left, but you know people have been asking for it so it's like I've been getting rid of it. But the shit is stuck in the post office right now.*

*ATF UC: How much you got left?*

*PEREZ: Huh?*

*ATF UC: How much you got left? Or you got nothing?*

*PEREZ: I ain't got nothing left, but like I said I should have more by tomorrow and stuff.*

*ATF UC: By tomorrow you said?*

*PEREZ: Yeah it should be delivered tomorrow*

*ATF UC: Uh...I don't know man*

*PEREZ: I'll keep you posted when I start, you know....when I get my chemicals and shit back*

*ATF UC: Alright man, let me know first thing man because I got...like anytime I gotta leave from work I gotta cross the bridge. You get what I'm sayin?*

*PEREZ: Oh you into Jersey?*

*ATF UC: Yeah Yeah Yeah, so I gotta cross the bridge each time*

*PEREZ: Oh ok well naw...*

*ATF UC: Like if I know what's good...like if I know its going...like it ain't no problem*

*PEREZ: Yeah that's why I let you know now when you called, like I ain't got chemicals because*

*I ran out of shit. So...I'm waiting for my other shit that I ordered already before I ran out. And you know with all this Coronavirus shit it is slowing up all the mail and all that bullshit*

*ATF UC: Yeah Yeah..for real for real*

*PEREZ: Like I said as soon as I get it I'll let you know*

*ATF UC: You get that shit tomorrow though?*

*PEREZ: Yeah tomorrow...tomorrow...at the latest Friday*

*ATF UC: Alright*

*PEREZ: Alright I'll keep you posted*

*ATF UC: Alright bro, hit me up right*

*PEREZ: I got you*

19. On May 26, 2021, I spoke with the owner of Deep Dixie Outdoors LLC, located in Sycamore, Georgia. I previously requested information from the owner concerning orders for explosive precursor chemicals associated with PEREZ. Specifically, I gave Deep Dixie the alias "Xavier Dryson," as well as PEREZ's address on West Cornwall Street, Philadelphia, to the company to assist in their records search for orders associated with PEREZ. The owner stated that on May 25, 2021, "Xavier Dryson" placed an online order for 93 pounds of aluminum powder (specifically, 2 Micron Dark Flake Aluminum Powder) to be shipped to PEREZ's address on West Cornwall Street, Philadelphia. The owner also stated that the significant quantity of this order was extraordinary.

20. On June 1, 2021, agents observed a UPS delivery driver placing two cardboard boxes on the floor just inside the open front door of PEREZ's home. The packages were accepted by an unknown older female with white hair.

21. Based on my training and experience, I know that 2 Micron Dark Flake Aluminum Powder can be used as a fuel and sensitizer in explosive powders. Specifically, aluminum



powder and potassium chlorate/perchlorate mixed in a certain ratio is the formulation for the explosive Flash Powder. Flash Powder is identified as a main explosive charge that is used in pyrotechnic devices as well as M-Type illegal explosive devices.

22. On June 1, 2021, the ATF UC contacted David PEREZ on TT#1 at approximately 2:56 p.m. to set up a controlled purchase of fifty (50) M-Type illegal explosive devices.

The following is a transcript of the consensual recorded phone call:

*PEREZ: Yeah*

*ATF UC: Hello?*

*PEREZ: What's up Sha?*

*ATF UC: Yo what's up? Yo you ain't never come through last week*

*PEREZ: My chemicals ain't never come through till today*

*ATF UC: Oh for real?*

*PEREZ: Yeah they came in the mail today*

*ATF UC: Oh shit alright*

*PEREZ: That shit just fucked me over for memorial day*

*ATF UC: Shit alright*

*PEREZ: Yeah I'm mixing everything right now as we speak*

*ATF UC: Oh for real?...yeah I had dudes lined up man. That's why I was askin. So I was like...shit alright*

*PEREZ: Yeah I mean if they still want it I'm mixing the chemicals and stuff right now*

*ATF UC: Yeah yeah they still want it*

*PEREZ: Yeah like I said that shit fucked me over, that shit all came in the mail today, FedEx and*

*UPS.*

*ATF UC: Oh for real?*

*PEREZ: Yeah I'm like damn it was supposed to come Friday, then Saturday, then they said it was late.*

*ATF UC: It's the holiday bro, that's what it is, it's the holiday. Plus what you say, you sayin it's the post office you know?*

*PEREZ: Yeah*

*ATF UC: That's just how it is now. But um...when you gonna be ready man, I'm trying to get something real soon*

*PEREZ: I should be ready by tomorrow*

*ATF UC: By tomorrow?*

*PEREZ: Yeah*

*ATF UC: Alright. Let's do this man. Maybe I'll hit you up um, I'll hit you up tomorrow.*

*PEREZ: Ok*

*ATF UC: Like before my lunch time, if you got something...um...I can just grab it then*

*PEREZ: Ok then that's cool*

*ATF UC: That cool with you?*

*PEREZ: Yeah that's fine*

*ATF UC: Alright I'll hit you up tomorrow then*

*PEREZ: Alright Sha*

23. Overall, ATF's investigation has identified sixteen orders shipped to PEREZ using multiple addresses and delivery names from several distributors, including

PyroDirect.com/Badaboom Fireworks and Deep Dixie Outdoors. These sixteen orders have been tied to PEREZ through multiple means in reviewing records provided from these companies detailing the orders placed, including known addresses associated with him, known aliases used by him, known e-mails utilized by him, and addresses and individuals tied to him. ATF investigators have identified 229 pounds of potassium perchlorate and 208 pounds of aluminum powder, as well as 4,000 red 1" x 6" inch cardboard tubes, and 8,000 red plastic Harmon Ventures end caps delivered to PEREZ and his associates on the invoice and delivery documentation from all the identified distributors used by PEREZ. Thus, there is probable cause to believe that PEREZ has acquired the necessary materials to manufacture thousands of M-Type illegal explosive devices. His use of Harmon Ventures end caps indicates that he is a possible manufacturer of at least some of the M-Type illegal explosive devices detonated in Philadelphia since June of 2020. TT #1 is listed on contact information on at least six delivery information/invoice records ATF has obtained.

24. On June 2, 2021, the ATF UC contacted David PEREZ on TT#1 at approximately 11:02 a.m. to set up a controlled purchase of fifty (50) M-Type illegal explosive devices for \$250. The following is a transcript of the consensual recorded phone call:

*PEREZ: Yeah Sha*

*ATF UC: Yo cuz what's good?*

*PEREZ: What's up?*

*ATF UC: Yo I'm about to leave in like an hour man*

*PEREZ: You gotta tell me your number how many you need?*

*ATF UC: I need 50....same*

*PEREZ: 50?*

*ATF UC: Yeah*

*PEREZ: Alright then. I'll see you at 12:00 then or whenever you get there? I'll send you the address...let me know when you get out on lunch break and I'll send you an address*

*ATF UC: Yeah I'm about to get out like a little bit...Yeah just text me an address when you can*

*PEREZ: Alright then*

*ATF UC: Alright*

25. At approximately 12:20 p.m. I provided pre-recorded money for the purchase of fifty (50) M-Type illegal explosive devices from PEREZ for \$250. ATF investigators established surveillance of the area prior to the controlled purchase. The ATF UC traveled to the area of the purchase, which was visible to me and the other ATF investigators conducting surveillance.

26. On June 2, 2021, the ATF UC and PEREZ exchanged thirteen (13) text messages to arrange when and where to meet for the transaction. Specifically, at approximately 12:30 p.m., PEREZ texted the ATF UC to meet him at "3<sup>rd</sup> and Ontario 19140." The intersection of 3<sup>rd</sup> and Ontario Street, Philadelphia, 19140 is located approximately 380 feet north of PEREZ's address on West Cornwall Street. At approximately 1:05 p.m., the ATF UC activated an audio recording and video device to record his interactions with PEREZ during the controlled purchase. At

approximately 1:11 p.m., the ATF UC arrived near 3<sup>rd</sup> and Ontario Street and texted PEREZ at TT #1 that he was on location.

27. At approximately 1:30 p.m., ATF investigators observed PEREZ and an unknown male in a straw hat (UNSUB) leave the garage located adjacent to PEREZ's address on West Cornwall Street, Philadelphia. The UNSUB was carrying a brown cardboard box as he and PEREZ walked to the intersection of 3<sup>rd</sup> and Cornwall Street. ATF agents watched as PEREZ and the UNSUB walked north on 3<sup>rd</sup> Street towards to the ATF UC vehicle parked near 3<sup>rd</sup> and Ontario Street. At approximately 1:31 p.m., PEREZ and the UNSUB met with the ATF UC.

28. During the meeting, PEREZ took the box from the UNSUB and placed it in the rear hatchback of the ATF UC vehicle. The ATF UC then went into his UC vehicle to retrieve the \$250 in pre-recorded money. The ATF UC gave \$250 to PEREZ. The ATF UC and PEREZ had a brief conversation related to the UC's interest in the purchase of additional M-Type illegal explosive devices on June 3, 2021. Because ATF now knows PEREZ has \$250 the ATF UC paid to him, in addition to the items of evidence I seek to seize, listed in Attachment B, I seek authorization to seize all United States Currency, we find in an area under the custody and control of, or accessible by PEREZ.

29. At 1:32 p.m., PEREZ and the UNSUB crossed 3<sup>rd</sup> Street and walked in the direction of Cornwall Street. At approximately 1:33 p.m., PEREZ and the UNSUB entered the garage adjacent to PEREZ's address through the front door.

30. At approximately 1:34 p.m., the ATF UC drove away from the area and met me, along with two Law Enforcement Officers/Bomb Technicians (BTs). The BTs recovered the

cardboard box from the rear of the ATF UC vehicle and transported it to Philadelphia Police Bomb Disposal Unit headquarters for analysis and storage of the explosive devices.

31. On June 2, 2021 at approximately 2:45 p.m., the BTs began processing the explosive devices contained in the box sold to the ATF UC. The box contained fifty (50) M-Type illegal explosive devices constructed of red cardboard tubing approximately six inches (6”) long by one inch (1”) in diameter, sealed at both ends with red plastic “Harmon Venture” end plugs. The devices had a length of colored hobby fuse protruding from the middle, secured to the cardboard tube by glue. The BTs exploited two (2) of the fifty (50) M-Type illegal explosive devices to gain a representative sample of the devices. The first device (Device #1) exploited contained approximately 50 grams of a fine grey powder. The second device (Device #2) exploited contained 53 grams of a fine grey powder. The BTs performed a field test on the powder from Device #1 and Device #2. In both cases the powder reacted in an energetic manner. This is consistent with how known explosive powders react, which led to their conclusion that the devices the ATF UC purchased from PEREZ are illegal M-type explosive devices within the meaning of federal law.

32. I conducted a search of ATF internal databases related to Federal Explosives Licenses (FEL) and confirmed that there is no record of David PEREZ having a Federal Explosives License/Permit or being a Responsible Person/Possessor of an active Federal Explosives License/Permit. PEREZ cannot conduct activities as an FEL, which include, but are not limited to, the possession, transportation, shipment, or receipt of explosive materials. Moreover PEREZ’s address and the address of the garage adjacent to his address are not listed as a premise for any other explosive licensee or a storage location for explosive materials.

33. A query of the NCIC database reveals PEREZ has multiple felony convictions, including burglary, for which he received a sentence of 8 to 23 months incarceration in Bucks County, Pennsylvania, in 2011 (CP-09-CR-0007867-2008); and possession of a firearm by a prohibited person, for which he received a sentence of 2 ½ years to 5 years' incarceration in August 2015 in Philadelphia County (CP-51-CR-0010369-2014). Accordingly, PEREZ is legally prohibited from possessing explosives.

**CONCLUSION**

34. Based upon the aforementioned facts, I submit that there is probable cause to believe that David PEREZ violated Title 18, United States Code, Sections 842(i) (felon in possession of an explosive), and 842(a)(1) (engaging in the business of importing, manufacturing, or dealing in explosive materials without a license), and request an arrest warrant be issued for these offenses.

35. Agents intend to execute this arrest during a second scheduled sale of M-type illegal explosive devices from PEREZ to the ATF UC, currently anticipated to occur on June 3, 2021. As discussed above, there is probable cause to believe that PEREZ is in possession of sufficient raw materials to manufacture thousands of explosive devices. Accordingly, for the safety of the agents, as well as any individuals located in PEREZ's home, and the safety of the neighborhood, a ruse in the form of an additional buy of explosive materials is necessary to draw PEREZ from his house to execute this arrest as safely as possible.

/s/ Gary Malone  
**Gary Malone**  
**Senior Special Agent, ATF**

**Sworn and subscribed to before me**  
**this 3rd day of June, 2021**

/s/ David R. Strawbridge  
**Honorable David R. Strawbridge**  
**U.S. Magistrate Judge**